THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 10637 OF 2002

A N D

W.P.No. 27114 OF 2001

14th December, 2005

Between:

W.P.No. 10637 OF 2002

M/s Janachaitanya Housing Limited

Rep. by its Authorissed officer,

A.Venkat Ratnam, R.G.M. (Estates)

Regional Office at II Floor, Zianab Complex

Amerrpet, Hyderabad …Petitioner

A N D

1. The Govt. of Andhra Pradesh

rep. by its Principal Secretary,

Revenue, Secretariat, Hyderabad and Others ..Respondents

W.P.No. 27114 OF 2001

1. V.Nagender and another …Petitioner

A N D

1. The Govt. of Andhra Pradesh

rep. by its Principal Secretary,

Revenue, Secretariat, Hyderabad and Others ..Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 10637 OF 2002

A N D

W.P.No. 27114 OF 2001

COMMON ORDER:

1. These two writ petitions are filed assailing the order dated

24-11-2001 passed by the Joint Collector, Ranga Reddy District in File No.

D5/1314/2001 in exercising powers under Section 9 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971. (Herein after referred to as 'Act' for brevity).

2. The facts of the case in brief giving rise to filing of these two petitions are :

P.D. Gell Knights and Chandar Leela respondents No.6 and 7 in W.P.No.10637 of 2002 filed application under A.P. Rights in Land Pattadar Pass Books Act, 1971 before the Recording Authority for mutation of their names in the Revenue records. The Recording Authority passed order in File No.B/520-85 and File No.521 of 85, dated 2-6-1986 mutating their names in the Revenue Records. Assailing the order of the Recording Authority V.Nagender and P.Sharada-petitioners in W.P.No.27114 of 2001 filed revision before the Joint Collector, Ranga Reddy District under Section 9 of the Act. The revisional authority-Joint Collector on considering the entire material on record and on hearing the parties came to the conclusion that the Mandal Revenue Officer, committed error in mutating the names of P.D.Gell Knights and Chandarleela basing on the unregistered documents. While setting aside the order of the Recording Authority-Mandal Revenue Officer, the Joint Collector issued directions to the District Registrar and Joint Registrar, Moosapet, Ranga Reddy District not to entertain any registration in respect of the land bearing Survey No. 44/5 of Maqtha Mahabubpet village Serilingampally Mandal pending proceedings in Case No. E1/7306/99 before the Joint Collector, Ranga Reddy.

3. Aggrieved by the directions given by the Joint Collector while disposing of the revision, these two writ petitions have been filed.

4. P.D. Gell Knights and Smt. Chandar Leela- respondents No. 5 and 6 in W.P.No.27114 of 2001 despite notice being served on them by substitute service did not choose to enter appearance and resist the writ petitions.

5. Heard learned counsel for the petitioners and learned Government Pleader for official respondents in both the writ petitions.

6. Respondents 4 and 5 in W.P.No.10637 of 2002 are the writ petitioners in W.P.No.27114 of 2001.

7. Learned counsel appearing for the petitioners in W.P.No.27114 of 2001 submits that the Joint Collector giving directions to the District Registrar and Joint Registrar is beyond the scope of the revision and thus the said direction need to be set aside.

8. Learned counsel appearing for the writ petitioners in W.P.No.10631 of 2002 submits that the order of the Joint Collector passed in Case No.E1/7306 of 1999 is subject matter of the writ petitions 4849, 18142, 18372, 20517, 23825,24737 of 2000 and 8298 of 2003 and this Court by common order dated 12-11-2003 set aside the order of the Joint Collector in Case No. E1/7306/99 and remanded back the matter for fresh enquiry. The order copy passed in the above batch of writ petitions is placed on record. The relevant portion of the order passed in above referred batch of writ petitions read as follows:

> "*The length of time after which the proceedings are initiated is certainly an important factor. Through a catena of decisions, the Supreme Court and this Court held that wherever suo motu power is conferred on an authority, the same is required to be exercised within a reasonable time. This, however, is subject to a rider that where any proceedings are vitiated by fraud, the length of time after which the proceedings are initiated becomes insignificant or secondary. The question as to whether there existed any fraud in the present proceedings, is one of fact, which, in turn will depend on the nature of allegations, role attributed to any person in the matter etc. It is too premature for this Court to reach any conclusion on this aspect.*
>
> *Coming to the second submission of the petitioners that valid title had accrued to them, this Court does not intend to undertake any discussion on the same, lest it forecloses any submission that may be made by the petitioners or consideration there of by the respondents. This Court does not find any basis to stall or prohibit the proceedings initiated by the Joint Collector. It is needless to observe that it shall be open to the petitioners to urge all grounds of fact and law before the Joint Collector and that the latter is under an obligation to deal with each of such contentions.*
>
> *Learned counsel for the petitioners submit that the respondents have not made available the record which is sought to be relied upon. It is made clear that it shall be obligatory on the part of the Joint Collector to make available the certified copies of such material, as he intends to rely upon during the course of enquiry, to the petitioners and that any lapse in this regard may vitiate proceedings. It shall be open to the petitioners to file explanations or additional explanations if any, within 30 days from today.*
>
> *Having regard to the fact that several persons have acquired*

title in the land, it is desirable that the proceedings are given finality at the earliest. The Joint Collector shall conclude the proceedings initiated through the show cause notices, within six months from the date of receipt of a copy of this order".

9. The material placed on record clearly shows that the Joint Collector proceeding bearing Case No. E1/7306/99 is pending for consideration. In that view of the matter, no further direction need be issued by the Joint Collector in exercising the revisional powers against the order passed by the Mandal Revenue Officer in file No. B/520/85 and B/521/85, dated 2-6-1986. The Joint Collector was required to adjudicate upon in a revision filed by the V.Nagender and P.Sharada-petitioners in W.P.No.27114 of 2001 as to the legality of the order passed by the Recording Officer-Mandal Revenue Officer mutating the name of P.D.Gell Knights and Chandarleela. The Joint Collector on a thorough enquiry recorded a finding that the Recording Authority is not justified in mutating the name of the above referred two persons in the revenue record. The revisional authority while cancelling order of mutation but also proceeded further in issuing certain directions to the District Registrar and Joint Collector, which, in my considered view, is not warranted.

10. Accordingly, the direction issued by the Joint Collector to the District Registrar and the Joint Registrar, Moosapet, Ranga Reddy District is unwarranted and the same is hereby set aside.

11. Accordingly, both the writ petitions are allowed. No order as to costs.

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Justice B.Seshasayana Reddy

14th December,2005

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THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.No. 10637 OF 2002

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W.P.No. 27114 OF 2001

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14th December, 2005

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